

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AMERICAN CIVIL LIBERTIES UNION, et al.	:	CIVIL ACTION
	:	
v.	:	NO. 98-5591
	:	
ALBERTO R. GONZALES in his official capacity	:	
as Attorney General of the United States	:	

**ORDER**

**AND NOW**, this 12th day of October, 2006, upon consideration of plaintiffs' motion to designate deposition testimony pursuant to Rule 32 (Doc. No. 323) and the response and reply thereto (Doc. Nos. 325 & 333) and plaintiffs' motion for leave to file a reply (Doc. No. 332), the court finds the following:

1. Each of the ten third-party witnesses at issue reside at a distance greater than 100 miles from the courthouse;

2. It does not appear that the absence of the witnesses was procured by plaintiffs nor is there any reason to believe that these witnesses have subsequently come within the reach of the court;

3. Defendant has not shown that substantial prejudice will result if the deposition testimony is used at trial;

4. The designation of the deposition testimony does not conflict with this court's previous pre-trial orders;

5. This ruling does not prejudice plaintiffs' right to call these witnesses in person if possible;

Therefore, it is hereby **ORDERED** that:

6. The motion to designate deposition testimony pursuant to Rule 32 (Doc. No. 323) is **GRANTED** and under Rule 32(a)(3)(B), any party may use the depositions of these witnesses for any proper purpose;

It is hereby further **ORDERED** that:

7. The motion for leave to file a reply brief (Doc. No. 332) is **GRANTED**

*nunc pro tunc.*

S/ Lowell A. Reed, Jr.  
LOWELL A. REED, JR., S.J.